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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-552

11 **JENNIFER PAIGE MCWHORTER**
12 **P.O. Box 6036**
13 **Metairie, LA 70009**
14 **Registered Nurse License No. 785546**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

15 Respondent.

16 **FINDINGS OF FACT**

17 1. On or about March 15, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her
18 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
19 of Consumer Affairs, filed Accusation No. 2012-552 against Jennifer Paige McWhorter
20 (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

21 2. On or about October 18, 2010, the Board of Registered Nursing (Board) issued
22 Registered Nurse License No. 785546 to Respondent. The Registered Nurse License was in full
23 force and effect at all times relevant to the charges brought in Accusation No. 2012-552 and will
24 expire on October 31, 2012, unless renewed.

25 3. On or about March 15, 2012, Respondent was served by Certified and First Class
26 Mail copies of the Accusation No. 2012-552, Statement to Respondent, Notice of Defense,
27 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
28 and 11507.7) at Respondent's address of record which, pursuant to California Code of

1 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.
2 Respondent's address of record was and is: P.O. Box 6036, Metairie, LA 70009. On or about
3 April 3, 2012, the signed Certified Mail Receipt was returned to our office indicating a delivery
4 date of March 20, 2012.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. Government Code section 11506 states, in pertinent part:

9 (c) The respondent shall be entitled to a hearing on the merits if the respondent
10 files a notice of defense, and the notice shall be deemed a specific denial of all parts
11 of the accusation not expressly admitted. Failure to file a notice of defense shall
12 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
13 may nevertheless grant a hearing.

14 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
15 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
16 552.

17 7. California Government Code section 11520 states, in pertinent part:

18 (a) If the respondent either fails to file a notice of defense or to appear at the
19 hearing, the agency may take action based upon the respondent's express admissions
20 or upon other evidence and affidavits may be used as evidence without any notice to
21 respondent.

22 8. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
25 taking official notice of all the investigatory reports, exhibits and statements contained therein on
26 file at the Board's offices regarding the allegations contained in Accusation No. 2012-552, finds
27 that the charges and allegations in Accusation No. 2012-552, are separately and severally, found
28 to be true and correct by clear and convincing evidence.

9. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$672.50, as of April 12, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Jennifer Paige McWhorter has subjected her Registered Nurse License No. 785546 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

a. Bus. & Prof. Code section 2761(a)(4) – Out of State Discipline

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Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

It is so ORDERED July 5, 2012

default decision LIC.rtf
DOJ Matter ID:SA2011102480

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Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 KAREN R. DENVER
Deputy Attorney General
4 State Bar No. 197268
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-552

13 JENNIFER PAIGE McWHORTER
14 P.O. Box 6036
Metairie, LA 70009
15 Registered Nurse License No. 785546

ACCUSATION

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about October 18, 2010, the Board issued Registered Nurse License Number
23 785546 to Jennifer Paige McWhorter ("Respondent"). Respondent's registered nurse license was
24 in full force and effect at all times relevant to the charges brought herein and will expire on
25 October 31, 2012, unless renewed.

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27 ///

1 Respondent's Louisiana registered nurse license was formally reprimanded with stipulations.
2 Respondent was also ordered to pay a \$1,000 fine to the Board. A true and correct copy of the
3 Consent Order is attached as exhibit A and incorporated herein by reference. Respondent
4 admitted that on or about November 8, 2010, while working at West Jefferson Medical Center in
5 Marrero, Louisiana, she practiced beyond the scope of nursing by administering medication
6 (Zofran and Toradol) to a coworker that had not been ordered.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Registered Nursing issue a decision:

10 1. Revoking or suspending Registered Nurse License Number 785546, issued to
11 Jennifer Paige McWhorter;

12 2. Ordering Jennifer Paige McWhorter to pay the Board of Registered Nursing the
13 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
14 Professions Code section 125.3;

15 3. Taking such other and further action as deemed necessary and proper.

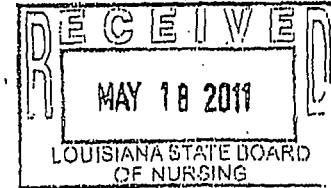
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17 DATED: March 15, 2012

for Stacey Beir
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A
CONSENT ORDER

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LOUISIANA STATE BOARD OF NURSING
BATON ROUGE, LOUISIANA

IN THE MATTER OF:
JENNIFER PAIGE MCWHORTER
P.O. BOX 6036
METAIRIE, LA 70009

RN# 116227
CONSENT ORDER

Respondent

TERMS AGREED TO BY LICENSEE

I, JENNIFER PAIGE MCWHORTER, (Respondent), voluntarily agree to sign and have witnessed terms of agreement for the purpose of avoiding formal administrative proceedings with the Louisiana State Board of Nursing.

I, JENNIFER PAIGE MCWHORTER, do say that I freely, knowingly and voluntarily enter into this agreement. I understand that I have a right to a hearing in this matter and I freely waive such right. I understand that I have a right to legal counsel prior to entering into this agreement.

I acknowledge that the Louisiana State Board of Nursing makes the following FINDINGS OF FACT:

1. On or about September 19, 2006, Respondent was licensed by examination to practice as a Registered Nurse in Louisiana.
2. On or about November 8, 2010, while working at West Jefferson Medical Center in Marrero, Louisiana and assigned to the care of Patient RJ who had no order for Zofran and Toradol, Respondent practiced beyond the scope of nursing practice, failed to use appropriate judgment, failed to practice nursing in accordance with the legal standards of nursing practice, improperly used the hospital's drugs by misappropriating those items from the facility, when:
At 21:46 (7:46PM) Respondent removed Ondansetron HCL 4mg/2ml inj. (Zofran) from the Pyxis and administered it to a coworker Emergency Medical Technician (EMT) for complaints of back pain;
At 21:46 (7:46PM) Respondent removed Ketorolac Tromethamine 60mg/2ml inj. (Toradol) from the Pyxis and administered it to an Emergency Medical Technician for complaints of back pain.

To facilitate submission of this Consent Agreement, I do not offer any defense to the FINDINGS OF FACTS. I agree that the Board has jurisdiction of this matter pursuant to L.R.S. 37:911 et seq. I admit to all of the above facts and I agree that there is sufficient evidence upon which to predicate a finding of violation of the provisions of L.R.S. 37:921. I agree that the Board may treat the allegations of fact and law as true, which finding shall have the same force and effect as if evidence and argument were presented in support of the allegations and, based thereon, the Board found the allegations to be true. I specifically waive my right to contest these findings in any subsequent proceedings before the Board. I understand that this Consent Order shall constitute a public record and is disciplinary action by the Board. I understand that this will be reported to Healthcare Integrity and Protection Data Bank (HIPDB) as 29: Practicing Beyond Scope.

HIPDB Narrative: RN's license was formally reprimanded with stipulations after RN practiced beyond scope of nursing by administering medication not ordered to a coworker.

I further acknowledge and attest that I have fully cooperated with the Louisiana State Board of Nursing in resolving this matter and intend to comply with all stipulations of this Order.

In order to avoid further administrative proceedings, I hereby consent to accept and abide by the following ORDER of the Board:

JPm
Initials